

UNITED STATES DISTRICT COURT

MIDDLE DISTRICT OF ALABAMA

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MONTGOMERY, ALABAMA 36101-0711

DEBRA P. HACKETT  
CLERK

TELEPHONE

(334) 954-3610

September 14, 2007

Mr. Thomas K. Kahn, Clerk  
United States Court of Appeals, Eleventh Circuit  
56 Forsyth Street, NW  
Atlanta, GA 30303

USDC No. CV-07-F-402-E

USCA No. \_\_\_\_\_

IN RE: GENE COGGINS VS. CITY OF JACKSON'S GAP, ET AL.

Enclosed are documents regarding an appeal in this matter. Please acknowledge receipt on the enclosed copy of this letter.

☒ Certified copy of Notice of Appeal, docket entries. Judgment and Opinion/Order appealed from enclosed. If Opinion/Order was oral, please check box. [ ]

☒ First Notice of Appeal: ☒ Yes, \_\_\_ No Date(s) of Other Notices: \_\_\_\_\_

Was there a hearing from which a transcript could be made:

☐ Yes, The Court Reporter(s) is/are: \_\_\_\_\_

☒ No Date of Hearing(s): \_\_\_\_\_

THE FOLLOWING MATERIALS WERE SEALED IN THIS COURT (Order encl.): \_\_\_\_\_

☒ IFP; and/or APPEALABILITY/CPC is pending in this Court.

☐ Court Appointed Counsel/CJA; \_\_\_ Yes; \_\_\_ No; Copy of Order Enclosed:

☒ The Appellate docket fee has been paid \_\_\_ Yes, ☒ No: \_\_\_\_\_ Date, Receipt# \_\_\_\_\_

☐ Appellant has been \_\_\_ GRANTED; \_\_\_ DENIED IFP, Copy of Order enclosed.

☐ Appellant has been \_\_\_ GRANTED; \_\_\_ DENIED CPC/APPEALABILITY, Copy of Order enclosed.

☐ Appeal Bond, \_\_\_ Supersedeas Bond

☒ The District Judge or Magistrate Judge appealed from is Hon: MARK E. FULLER

This is an appeal from a bankruptcy order; Bankruptcy Judge: \_\_\_\_\_

☐ This is a DEATH PENALTY appeal.

Certified record on appeal consisting of:

\_\_\_ Volume(s) of Pleadings, \_\_\_ Volume(s) of Transcripts,

\_\_\_ SEALED ITEMS, ie. \_\_\_ PSI(s) \_\_\_; OTHER \_\_\_; TAPE(s) \_\_\_

\_\_\_ Exhibits: \_\_\_ Envelope

\_\_\_ Volume (s) of Original Papers

cc:

Sincerely,

DEBRA P. HACKETT, CLERK

By: Yolanda Williams  
Deputy Clerk



APPEAL, LEAD, MAG+

**U.S. District Court  
Alabama Middle District (Opelika)  
CIVIL DOCKET FOR CASE #: 3:07-cv-00402-MEF-TFM  
Internal Use Only**

Coggins v. City of Jackson's Gap et al (MAG+)(LEAD)  
Assigned to: Hon. Chief Judge Mark E. Fuller  
Referred to: Honorable Terry F. Moorer  
Member cases:

3:07-cv-00402-MEF-TFM

3:07-cv-00406-MEF-TFM

Cause: 42:1983 Civil Rights Act

Date Filed: 05/09/2007

Jury Demand: None

Nature of Suit: 440 Civil Rights: Other

Jurisdiction: Federal Question

**Plaintiff**

**Gene Coggins**

represented by **Gene Coggins**  
1436 County Road 299  
Lanett, AL 36863  
334-576-3263  
PRO SE

V.

**Defendant**

**City of Jackson's Gap**

represented by **Randall C. Morgan**  
Hill Hill Carter Franco Cole & Black  
PO Box 116  
Montgomery, AL 36101-0116  
334-834-7600  
Fax: 263-5969  
Email: rmorgan@hillhillcarter.com  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Jackson's Gap Police Department**  
**TERMINATED: 08/10/2007**

represented by **Randall C. Morgan**  
(See above for address)  
**TERMINATED: 08/10/2007**  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Consol Defendant**

**Tallapoosa County District Attorney  
Office**

represented by **Tallapoosa County District Attorney  
Office**  
c/o Frank Luckus, Clerk  
Tallapoosa County Courthouse  
125 No. Broadnax  
Dadeville, AL 36853  
PRO SE

**Consol Defendant**

**Tallapoosa County**

represented by **Winthrop E. Johnson**  
Webb & Eley PC  
7475 Halcyon Pointe Drive  
P.O. Box 240909  
Montgomery, AL 36124  
334-262-1850  
Fax: 334-262-1889  
Email: wjohnson@webbeley.com  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**









<b>Date Filed</b>	<b>#</b>	<b>Docket Text</b>
05/09/2007	<b>1</b>	COMPLAINT against City of Jackson's Gap, Jackson's Gap Police Department, filed by Gene Coggins. (dmn) (Entered: 05/09/2007)
05/09/2007	<b>2</b>	MOTION for Leave to Proceed in forma pauperis by Gene Coggins. (dmn) (Entered: 05/09/2007)
05/09/2007	<b>3</b>	MOTION to Show Cause by Gene Coggins. (dmn) (Entered: 05/09/2007)
05/09/2007	<b>4</b>	MOTION to Use the Appendix System by Gene Coggins. (dmn) (Entered: 05/09/2007)
05/25/2007	<b>5</b>	ORDER REFERRING CASE to Magistrate Judge Terry F. Moorner for action or recommendation on all pretrial matters. Signed by Judge Mark E. Fuller on 5/25/07. (sl, ) (Entered: 05/25/2007)
06/04/2007	<b>6</b>	ORDER re <u>2</u> MOTION for Leave to Proceed in forma pauperis filed by Gene Coggins. ORDERED that Plaintiff file by 6/15/2007 an amended motion to proceed in forma pauperis which includes an accurate and complete affidavit. The Clerk is DIRECTED to mail with this Order an application and affidavit to proceed in forma pauperis. Copy with IFP form mailed to Gene Coggins. Signed by Judge Terry F. Moorner on 6/4/2007. (dmn) (Entered: 06/04/2007)
06/21/2007	<b>7</b>	ORDER denying <u>2</u> Motion to Appear in forma pauperis. Further ORDERED that this lawsuit is STAYED pending prepayment of the requisite filing fees. Such fees must be paid on or before 7/9/2007 or the

		Court will enter a recommendation this case be dismissed for failure to prosecute. Signed by Judge Terry F. Moorner on 6/21/2007. (dmn) (Entered: 06/21/2007)
06/21/2007		(Court only) ***Set STAY Flag. (dmn) (see <u>7</u> Order for pdf) (Entered: 06/21/2007)
06/26/2007	<u>8</u>	AMENDED COMPLAINT against City of Jackson's Gap, Jackson's Gap Police Department, filed by Gene Coggins. (dmn) (Entered: 06/26/2007)
06/26/2007	<u>8</u>	<u>8</u> MOTION to Reconsider <u>7</u> Order on Motion for Leave to Proceed in forma pauperis, by Gene Coggins. (dmn) (This document has no pdf attached, see Doc. <u>8</u> for pdf.) (Entered: 06/26/2007)
06/27/2007	<u>9</u>	(VACATED PURSUANT TO <u>12</u> ORDER) ORDER that Plaintiff's <u>8</u> Renewed Motion to Proceed in forma pauperis is DENIED. Plaintiff's case is still STAYED pending prepayment of the requisite filing fees. The Court does, however, extend the date the fees must be paid to on or before 7/13/2007. Signed by Judge Terry F. Moorner on 6/27/2007. (dmn) Modified on 6/28/2007 (wcl, ). (Entered: 06/27/2007)
06/28/2007	<u>10</u>	MOTION to Remove All Order and Recommendations made in this case by any Magistrate Judge by Gene Coggins. (dmn) (Entered: 06/28/2007)
06/28/2007	<u>11</u>	MOTION for Leave to Proceed in forma pauperis by Gene Coggins. (dmn) (Entered: 06/28/2007)
06/28/2007	<u>12</u>	ORDER granting <u>11</u> MOTION for Leave to Proceed in forma pauperis; The Clerk is DIRECTED to lift the general stay on the lawsuit and the Court vacates its <u>9</u> Order that a filing fee must be paid; further ORDERED that service of this Complaint IS HEREBY STAYED. Signed by Judge Terry F. Moorner on 6/28/2007.(wcl, ) (Entered: 06/28/2007)
06/28/2007	<u>13</u>	ORDER denying <u>3</u> Motion for Order to Show Cause, denying <u>4</u> Motion to Use the Appendix System. Signed by Judge Terry F. Moorner on 6/28/2007. (wcl, ) (Entered: 06/28/2007)
07/03/2007	<u>14</u>	ORDER denying <u>10</u> Motion to Remove All Order and Recommendations made in this Case by Any Magistrate Judge. Signed by Judge Mark E. Fuller on 7/3/2007. (dmn) (Entered: 07/03/2007)
07/09/2007	<u>15</u>	SECOND MOTION to Use the Appendix System by Gene Coggins. (dmn) (Entered: 07/09/2007)
07/09/2007	<u>16</u>	MOTION to Clarify ( <i>Request for Instruction</i> ) by City of Jackson's Gap, Jackson's Gap Police Department. (Morgan, Randall) (Entered: 07/09/2007)
07/09/2007		***Attorney Randall C. Morgan added for City of Jackson's Gap and Jackson's Gap Police Department. (dmn) (see Doc. <u>16</u> for pdf) (Entered: 07/10/2007)

07/10/2007	<u>17</u>	ORDER denying <u>15</u> Second Motion to Use the Appendix System as further set out in the order. Signed by Judge Terry F. Moorer on 7/10/2007. (dmn) (Entered: 07/10/2007)
07/10/2007	<u>18</u>	ORDER re <u>16</u> Motion to Clarify (Request for Instruction). The "motion" has been resolved. Service of process of the Complaint and Amended Complaint is currently stayed pending review of Plaintiff's claims under 28 U.S.C. 1915. As such, no answer is due until the Court orders the Clerk to lift the stay of service and serve the defendants. To be clear, no answer is required at this time. Signed by Judge Terry F. Moorer on 7/10/2007. (dmn) (Entered: 07/10/2007)
07/12/2007	<u>19</u>	REPORT AND RECOMMENDATIONS re <u>1</u> Complaint and <u>8</u> Amended Complaint filed by Gene Coggins, that Plaintiff's claims against Defendant Jackson's Gap Police Department be DISMISSED without prejudice prior to service of process pursuant to 28 U.S.C. 1915(e)(2)(B)(I)-(iii). The Clerk of Court be DIRECTED to serve the Summons, Complaint, Amended Complaint, and a copy of all Orders in this file on the City of Jackson's Gap. Objections to R&R due by 7/25/2007. Signed by Judge Terry F. Moorer on 7/12/2007. (dmn) (Entered: 07/12/2007)
07/16/2007	<u>20</u>	MOTION for Default and Default Judgment by Gene Coggins. (dmn) (Entered: 07/16/2007)
07/16/2007	<u>21</u>	REPORT AND RECOMMENDATIONS that the <u>20</u> MOTION for Default and Default Judgment filed by Gene Coggins be DENIED. Objections to R&R due by 7/30/2007. Signed by Judge Terry F. Moorer on 7/16/2007. (dmn) (Entered: 07/16/2007)
07/17/2007	<u>22</u>	OBJECTION to <u>19</u> Report and Recommendations and Order by Gene Coggins. (dmn) (Entered: 07/17/2007)
07/20/2007	<u>23</u>	REPLY to Document <u>21</u> REPORT AND RECOMMENDATIONS filed by Gene Coggins. (dmn) (Entered: 07/20/2007)
07/25/2007	<u>24</u>	REPLY to all Recommendations and Orders with Motion for a Final Order filed by Gene Coggins. (sl, ) (Entered: 07/25/2007)
08/10/2007	<u>25</u>	ORDER overruling Plaintiff's <u>22</u> Objection to the Magistrate Judge's Recommendation; adopting <u>19</u> Report and Recommendations; dismissing plaintiff's claims against the Jacksons Gap Police Department without prejudice; overruling Plaintiff's <u>23</u> Reply, construed as an objection to the Magistrate Judge's Recommendation; adopting <u>21</u> Report and Recommendations; denying plaintiff's <u>20</u> Motion for Default and Default Judgment; overruling plaintiff's Reply to All Recommendations and Orders with Motion for Final Order, construed as an objection to the Magistrate Judge's Recommendations; denying plaintiff's <u>24</u> Motion for a Final Order contained in his Reply to All Recommendations and Orders with Motion for a Final Order; referring this case back to the Magistrate Judge for appropriate action or recommendation on all pretrial matters; Jackson's Gap Police Department terminated; Attorney Randall C. Morgan



		terminated for Jackson's Gap Police Department. Signed by Judge Mark E. Fuller on 8/10/2007. (Attachments: # <u>1</u> Civil Appeals Checklist)(cc, ) (Entered: 08/10/2007)
08/10/2007	● <u>26</u>	Summons Issued; Summons, Complaint, Amended Complaint, and a copy of all Orders in this file mailed by CMRRR to City of Jackson's Gap as directed in <u>19</u> Report and Recommendations. (cc, ) (Entered: 08/10/2007)
08/14/2007	● <u>27</u>	Return Receipt Card showing service of summons, complaint, amended complaint, and orders signed by Teresa Freeman for City of Jackson's Gap served on 8/13/2007, answer due 8/13/2007. (dmn) (Entered: 08/15/2007)
08/17/2007	● <u>28</u>	ORDERED that the referenced cases are consolidated for further proceedings (3:07cv402-MEF & 3:07cv406-MEF). Case No. 3:07-cv-402-MEF shall be the lead case, and the Clerk of Court is directed to docket this order in the above-referenced cases.. Signed by Judge Mark E. Fuller on 8/17/2007. (cb, ) (Entered: 08/17/2007)
08/17/2007	●	(Court only) ***Set LEAD Flags (Member Case 3:07cv406-MEF) (cb, ) (Entered: 08/17/2007)
08/17/2007	●	Cases associated LEAD case. (cb, ) (Entered: 08/17/2007)
08/17/2007	●	(Court only) ***Party Tallapoosa County District Attorney Office, and Tallapoosa County rep by Winthrop E. Johnson added pursuant to <u>28</u> Order consolidating the cases., *** (cb, ) (Entered: 08/17/2007)
08/23/2007	● <u>29</u>	(APPLIES TO 3:07CV406-MEF) BRIEF/MEMORANDUM in Opposition to Order entered 8/7/2007 in 3:07cv 406 filed by Gene Coggins. (wcl, ) (Entered: 08/24/2007)
08/24/2007	● <u>30</u>	MOTION to Clear Records for Original Defendants and Reversal of Opinions and Orders by Gene Coggins. (wcl, ) (Entered: 08/24/2007)
08/24/2007	●	<u>30</u> Motion to Clear Records construed as a MOTION for Reconsideration by Gene Coggins. (dmn) (This document has no pdf attached, see Doc. <u>30</u> for pdf.) (Entered: 08/31/2007)
08/31/2007	● <u>31</u>	ORDER re plaintiff's <u>30</u> "Motion to Clear Records" which the court construes to be a Motion for Reconsideration, it is hereby ORDERED that the motion is DENIED. Signed by Judge Mark E. Fuller on 8/31/2007. (dmn) (Entered: 08/31/2007)
09/04/2007	● <u>32</u>	ANSWER to Complaint, ANSWER to Amended Complaint by City of Jackson's Gap.(Morgan, Randall) (Entered: 09/04/2007)
09/05/2007	● <u>33</u>	Notice of Deficiency requiring filing of Corporate Disclosure/Conflict Statement sent to City of Jackson's Gap. Corporate Disclosures due by 9/19/2007. (Attachments: #(1) Order - Conflict Disclosure Statement and Sample Format)(dmn) (Entered: 09/05/2007)
09/05/2007	● <u>34</u>	Corporate/Conflict Disclosure Statement by City of Jackson's Gap re <u>33</u> Notice of Deficiency requiring filing of Corporate Disclosure/Conflict

		Statement. (Morgan, Randall) (Entered: 09/05/2007)
09/05/2007	 <u>35</u>	(Court only) ***Corporate Disclosure Deadline terminated for City of Jackson's Gap. (dmn) (Entered: 09/06/2007)
09/06/2007	 <u>35</u>	Corporate/Conflict Disclosure Statement by Tallapoosa County. (Johnson, Winthrop) (Entered: 09/06/2007)
09/12/2007	 <u>36</u>	REPLY to Defendants <u>34</u> Corporate/Conflict Disclosure Statement, <u>35</u> Corporate/Conflict Disclosure Statement by Gene Coggins. (dmn) (Entered: 09/12/2007)
09/12/2007	 <u>37</u>	REPLY to <u>35</u> Corporate/Conflict Disclosure Statement by Gene Coggins (applies to 3:07cv406-MEF). (cc, ) (Entered: 09/13/2007)
09/12/2007	 <u>38</u>	NOTICE OF APPEAL by Gene Coggins to the United States Court of Appeals for the Eleventh Circuit from the <u>31</u> Order denying Motion for Reconsideration, 8/31/07. Copies mailed (ydw, ) (Entered: 09/14/2007)
09/12/2007		MOTION to Stay by Gene Coggins. (ydw, ) (Entered: 09/14/2007)
09/12/2007	 <u>39</u>	MOTION for Leave to Appeal in forma pauperis by Gene Coggins. (ydw, ) (Entered: 09/14/2007)
09/14/2007	 <u>40</u>	Transmission of Notice of Appeal and Certified copy of Docket Sheet and Order to US Court of Appeals re <u>38</u> Notice of Appeal (ydw, ) Additional attachment(s) added on 9/14/2007 (ydw, ). (Entered: 09/14/2007)